S.B. CIVIL WRIT PETITION NO.303/2006
M/s. Krishna Ice Factory
vs
The Ajmer Vidyut Vitran Nigam Ltd. & Ors.

DATE OF ORDER : - 11.7.2007

HON'BLE MR.PRAKASH TATIA,J.

Mr. SN Trivedi, for the petitioner.
Mr. Manoj Bhandari, for the respondent.

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Heard learned counsel for the parties.

Learned counsel for the petitioner submitted that the petitioner lodged a complaint against the lineman of the electricity company who after checking the meter again came to the premises of the petitioner and broke down the seal of the meter. Because of that complaint, the officers of the electricity company became annoyed and, therefore, they falsely conducted a search and, thereafter, recorded that the meter seals are broken and 'Y' phase current was missing. Demand was raised against the petitioner and in pursuance of which, he deposited 50% of the amount, which according to the petitioner was deposited for getting the re-connection of the electricity supply.

The petitioner challenged the action of the respondent by filing writ petition no.2295/2005 before this Court in which this court disposed of the writ petition by order dated 19th April, 2005 and directed petitioner to approach the settlement committee. The

petitioner approached the settlement committee and the settlement committee vide order dated 22.8.2005 held that since it is a matter of theft of electricity, therefore, settlement committee cannot decide the matter. Such matters can be decided by the competent court constituted by the State Government with the concurrence of the High Court. Hence, the petitioner has again approached this Court by filing the present writ petition.

According to learned counsel for the petitioner, the action of the respondent on the face of it is absolutely malafide and instead of taking action against their own man, the respondent has raised a demand on the ground of breaking of the seal of the meter and missing of the current through 'Y' phase. It is also submitted that since settlement committee cannot decide the matter, therefore, petitioner has no alternate remedy and as per the information of the petitioner, the special court have not been established for deciding this type of matter.

Learned counsel for the respondent also in doubt whether the such special courts have been constituted or not.

Learned counsel for the respondent submitted that the writ petition involves disputed questions of fact and has been filed by creating evidence like complaint dated 15th July, 2004, therefore, the writ petition of the petitioner may be dismissed.

I considered the submissions of learned counsel for the parties and perused the record also. The petitioner has placed on

record copy of the complaint dated 15th July, 2004 wherein there is allegation against one lineman, who according to petitioner broke down the meter's seal. It is strange that petitioner is running an industrial unit did not reported the matter to the concerned Police Station when his premises were trespassed and seal of electricity meter was broken down by some person may he be of the electricity supply company. When no action was taken by the concerned authority – Superintending Engineer of the Electricity Company even then petitioner did not choose to take any action and is submitting that because of the complaint dated 15th July, 2004, after about eight months, the search was conducted in the premises of the petitioner on 23rd March, 2005 and officers of the respondent company made false report.

It is worthwhile to mention here that the petitioner by his own letter dated 15th July, 2004 admitted that the seal was not on meter from 15th July, 2004, but he has not pleaded that on his complaint, the seal on the meter was re-fixed after 15th July, 2004. In that situation, the facts mentioned in the report dated 23rd March, 2005 appears to be correct that the meter was without seal then petitioner's proving his allegation by evidence that seals were broken by respondent company's man cannot get relief. Be that as it may, it may not prejudice the case of the petitioner before the competent authority or court where he may produce evidence. The writ petition involves several disputed questions of facts as

according to the petitioner there is non-supply of current from one phase and that issue is also a debatable issue because petitioner is an industrial unit and using several types of motors and equipments and they can only run by three phase electric supply. This Court is not inclined to entertain this writ petition when there is an allegation of theft having some factual foundation and find support from the contention of the petitioner himself that at the relevant time seal of the meter was not there.

In view of th above reasons, I do not find any force in this writ petition and the same is hereby dismissed. However, it is made clear that in case any special court has not yet been established for deciding this type of dispute, then the petitioner may approach the civil court for his redressal of grievance. It is made clear that this order may not be treated against the petitioner on only factual aspect.

(PRAKASH TATIA), J.

c.p.goyal/-